



**SOUTH
KESTEVEN
DISTRICT
COUNCIL**

Non-key Decision

Report of Councillor Richard Cleaver
Cabinet Member for Property and
Public Engagement

Adoption of a further area of open space land contained within Title Number LL208985 at Exeter Street, Bourne, PE10 9NJ

Summary

The purpose of this report is to ensure that the final area of open space land on Exeter Street, Bourne, contained within a Section 106 Agreement (copy appended at Appendix One) can be adopted and maintained by the Council going forward.

Report Author

Gareth Dawkins – Corporate Property Team

Approved for publication:

Cllr Richard Cleaver - Cabinet Member for
Property & Public Engagement

6 May 2025

Recommendation(s) to the decision maker (s)

The Cabinet Member for Property & Public Engagement is asked to approve the acquisition of a further area of open space land at Exeter Street, Bourne, PE10 9NJ contained within Title Number LL208985

1. Implications

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, safeguarding, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

Finance

- 1.1 The Council has received a commuted sum in respect of this proposed adoption of open space which will meet the operational costs of maintaining it as open space.

Completed by: *Richard Wyles, Deputy Chief Executive and Section 151 Officer*

Legal and Governance

- 1.2 The objectives of the S106 Agreement would be met, by the transfer of the area of land to the Council, with the commuted sum, so that the development benefits from areas of public open space.

Completed by: *James Welbourn, Democratic Services Manager*

2. The Purpose of the Report

- 2.1 The purpose of this report is to seek authority to take a transfer of the final area of public open space contained within Title Number LL208985.
- 2.2 The developer of the Exeter Street development in Bourne, was obliged, under a Section 106 Agreement dated 19th December 2001 (**See Appendix One – S. 106 Agreement**) to transfer the land shown at Appendix Two to the Council.
- 2.3 The Council completed the transfer of seven areas of open space in February 2025. The subject land (**Appendix Two – Site Plan**), was held back due to concerns due to a potential contingent liability from possible tree root damage to an adjacent property.
- 2.4 The Council have been approached again by the developer Barratt & David Wilson Homes North Midlands who have confirmed that the trees have now been removed, thus taking away the potential risk of damage to any adjacent properties.
- 2.5 Under the terms of the Section 106 Agreement, the developer was obliged to make a payment of £60,000 towards future maintenance costs for all eight areas of land. This sum was paid in full when the first seven areas of land were adopted.

2.6 The developers are covering the Council's reasonable legal fees in this matter.

3. Available Options Considered

- 3.1 Option 1 – To give approval to the adoption of the remaining unadopted area of open space land contained within Title Number LL208985 at Exter Street, Bourne, PE10 9NJ.
- 3.2 Option 2 – To refuse to take a transfer of the land for adoption, will leave the Council in breach of its obligations under the Section 106 Agreement, with no valid reason remaining not to adopt the land.

4. Preferred Option

- 4.1 Approve Option One for the adoption of all seven areas, save the area with the contingent liability.

5. Reasons for the Recommendations

- 5.1 Adopting the land would mean the Council taking on the contingent liability for a future claim for tree damage to an adjacent property.
- 5.2 Refusing to adopt the land is not considered to be reasonable and would leave the Council in breach of its overall obligation to adopt, as contained within the S.106 Agreement.

6. Appendices

- 6.1 Appendix 1 - Section 106 Agreement
- 6.2 Appendix 2 - Transfer Plan.

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| Report Timeline: | Date decision due to be made | 20 May 2025 |
| | Call-in deadline | 28 May 2025 |
| | Date decision effective (subject to call-in) | 29 May 2025 |